

REMARKS

Claims 1-14 and 65, 66, and 71 constitute the pending claims in the present application. Applicants cancel, without prejudice, claims 8 and 71. Applicants add new claim 72. Support for the subject matter of this claim is found throughout the specification. Specific support can be found, for example, on page 47, lines 19-20. No new matter has been entered. Applicants respectfully request reconsideration in view of the following remarks. Issues raised by the Examiner will be addressed below in the order they appear in the Office Action.

1. Applicants note with appreciation that previously withdrawn claims 65 and 66 have been rejoined with elected claims 1-14 and 71.
2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants traverse this rejection to the extent it is maintained in light of the amended claims.

Applicants reiterate the arguments of record. Applicants continue to contend that Figure 3B provides explicit and implicit support for recitation of the informative genes assayed as part of the experiments summarized in the application. Nevertheless, to expedite prosecution, Applicants have amended the claims to more particularly point out certain embodiments of the invention. Specifically, Applicants have amended claim 7 to point out informative genes encoding particular proteins. Support for Applicants' amendment can be found, for example, on page 47, lines 5-28. Applicants' amendment is not in acquiescence to the rejection. Applicants reserve the right to prosecute claims of similar or differing scope. Reconsideration and withdrawal of this rejection are respectfully requested.

3. Claims 1-5, 7-14, and 71 are rejected under 35 U.S.C. 103(a) as allegedly unpatentable over Zheng *et al.* (IEEE Transactions on Neural Networks, 1997, 8: 1386-1396) in view of Eisen *et al.* (IDS ref AV: Proceedings of the National Academy of Science, 1998, 95: 14863-14868). Applicants respectfully traverse this rejection to the extent it is maintained in light of the amended claims.

Applicants contend that the cited references fail to undermine the patentability of the claimed invention. Applicants disagree with the entire basis of the rejection. In the previous office action, the Examiner rejected the claims as obvious in view of three references: Zheng *et al.*, Eisen *et al.*, and Barnhill. In the current Office Action, the Examiner acknowledged that Applicants' arguments overcome the rejection with respect to Barnhill. Yet, the Examiner has maintained the rejection under 35 U.S.C. 103(a). In maintaining the rejection, the Examiner now relies on only two references (Zheng *et al.* and Eisen *et al.*). It is unclear how an obviousness rejection created by cobbling together three disclosures allegedly stands based on only two of these disclosures, absent additional arguments or evidence.

Nevertheless, to expedite prosecution, Applicants have amended the claims to more particularly point out certain embodiments of Applicants' invention. Specifically, Applicants have amended claims 1 and 9 to more particularly point out that the known class is selected from certain known cancer disease classes. Support for Applicants' amendments can be found, for example, on page 3, line 9-page 4, line 26; page 6, lines 5-14; page 14, lines 14-24; page 15, lines 9-21; and page 40, line 4-page 41, line 19. Additionally, Applicants cancel, without prejudice, claims 8 and 71, rendering rejection of these claims moot. Applicants' cancellation of and amendments to the claims are not in acquiescence to the rejection. Applicants reserve the right to prosecute claims of similar or differing scope. In light of Applicants' amendments, reconsideration and withdrawal of this rejection are requested.

4. Applicants note with appreciation the Examiner's indication that claims 6 and 65-66 are allowable if rewritten in independent form. Applicants have amended claim 1 and claims 4-6 to incorporate the allowable subject matter. Additionally, Applicants have amended claim 9 to particularly point out that the known disease classes are selected from AML, ALL, glioblastoma, medulloblastoma, follicular lymphoma, or diffuse large B cell lymphoma. Support for Applicants' amendments can be found, for example, on page 40, line 5-page 41, line 19. In light of Applicants' amendments incorporating the subject matter that the Examiner has indicated as allowable, Applicants believe that the pending claims are in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000.

Please charge any deficiency or credit any overpayment in the fees that may be due in this matter to **Deposit Account No. 18-1945**, from which the undersigned is authorized to draw, under **Order No. WIBL-P02-518**.

Respectfully Submitted,



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